

1 Vanessa R. Waldref  
2 United States Attorney  
3 Eastern District of Washington  
4 Michael J. Ellis  
5 Assistant United States Attorney  
6 Michael L. Vander Giessen  
7 Special Assistant United States Attorney  
8 Post Office Box 1494  
9 Spokane, WA 99210-1494  
10 Telephone: (509) 353-2767

11 UNITED STATES DISTRICT  
12 FOR THE EASTERN DISTRICT OF WASHINGTON

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 vs.

16 FREDERICK TERRELL,

17 Defendant.

Case No.: 2:22-cr-00138-RMP

United States' Sentencing  
Memorandum

18 The Plaintiff, the United States of America, by and through Vanessa R.  
19 Waldref, United States Attorney for the Eastern District of Washington, Michael J.  
20 Ellis, Assistant United States Attorney for the Eastern District of Washington, and  
21 Michael L. Vander Giessen, Special Assistant United States Attorney for the  
22 Eastern District of Washington, respectfully submits the following sentencing  
23 memorandum. For the reasons stated below, and consistent with the parties' plea  
24 agreement, the United States respectfully asks the Court to sentence the Defendant,  
25 Frederick Terrell, to sixty months' imprisonment followed by three years'  
26 supervised release.

27 //

28 //

## I. INTRODUCTION

Mr. Terrell, a repeat perpetrator of violence against his intimate partners, knowingly possessed a firearm while knowing he was prohibited from doing so due to his felony convictions. The advisory United States Sentencing Guidelines range is fifty-one to sixty-three months' imprisonment. Only a sentence of sixty months' imprisonment adequately captures the nature and severity of Mr. Terrell's offense conduct, as well as his criminal history and acceptance of responsibility. Therefore, the United States recommends the Court sentence Mr. Terrell to sixty months' imprisonment followed by three years' supervised release. This proposed sentence is sufficient but not greater than necessary to achieve the sentencing purposes set forth in 18 U.S.C. § 3553(a).

## II. STATEMENT OF FACTS

On April 14, 2022, Mr. Terrell's former intimate partner contacted Mr. Terrell's community corrections officer with the Washington State Department of Corrections and reported that Mr. Terrell had text messaged her three videos depicting Mr. Terrell shooting a handgun at a shooting range. ECF No. 26 at 5; ECF No. 37 ¶ 9. Mr. Terrell also sent text messages such as "Glock 19" and "And I bought a 9mm. sig." ECF No. 26 at 5; ECF No. 37 ¶ 9. The videos were recorded on April 8, 2022. ECF No. 26 at 5.

Further investigation revealed that, on April 8, 2022, Mr. Terrell went with some coworkers to the Sharp Shooting Indoor Range and Gun Shop in Spokane, Washington. *Id.*; ECF No. 37 ¶¶ 11, 13. While there, Mr. Terrell possessed and discharged a handgun belonging to one of his coworkers. ECF No. 26 at 5; ECF No. 37 ¶¶ 13, 15, 16. The firearm was a Glock Model 20 ten-millimeter pistol. ECF No. 26 at 5; ECF No. 37 ¶ 15. Mr. Terrell also attempted to purchase a firearm, placing a Smith & Wesson M&P Shield nine-millimeter pistol on

1 layaway. ECF No. 26 at 6; ECF No. 37 ¶¶ 11–13. Mr. Terrell later admitted these  
2 acts to police. ECF No. 26 at 6; ECF No. 37 ¶¶ 13.

3 At the time he possessed the firearm, Mr. Terrell was serving an eighteen-  
4 month term of community custody on a 2021 Washington state conviction for  
5 second degree assault (domestic violence), in which he strangled and struck a  
6 different intimate partner. ECF No. 37 ¶¶ 105, 110. It was the seventh time Mr.  
7 Terrell had been convicted for a domestic violence assault. *Id.* ¶¶ 39, 55, 68, 85,  
8 87, 97, 105. Those seven convictions spanned from 2000 to 2021 and arose from  
9 incidents in California, Nevada, and Washington state. *Id.* Further, in California,  
10 Mr. Terrell had been convicted of four felonies for which he ultimately served  
11 more than one year’s imprisonment, namely for injuring a spouse or cohabitant in  
12 2015, possessing a firearm as a felon in 2008, using force against an intimate  
13 partner in 2007, and second degree robbery in 2003. *Id.* ¶¶ 49, 55, 61, 87. In total,  
14 Mr. Terrell has violated his probation conditions on at least six occasions. *Id.*  
15 ¶¶ 10, 11, 51, 58, 102, 115.

16 Two of Mr. Terrell’s nineteen convictions involved a firearm. *Id.* ¶¶ 43, 65.  
17 In 2008, Mr. Terrell’s then-intimate partner reported Mr. Terrell “threatened to kill  
18 [her] while pointing a handgun at her face.” *Id.* ¶ 65. “He then directed her to take  
19 him to a couple of other locations, one of which was a fast-food restaurant.” *Id.*  
20 “While there, [Mr. Terrell] yelled profanities at [the victim] and said, ‘You going  
21 to die tonight bitch!’” *Id.* “When they arrived back at their residence, Mr. Terrell  
22 hit her in the head with the back of a pistol, pulled her hair, and slapped her.” *Id.*  
23 The victim was “unable to leave the residence until Mr. Terrell fell asleep.” *Id.* She  
24 then “escaped and called law enforcement for assistance.” *Id.*

25 In 2000, a witness reported Mr. Terrell assaulted his intimate partner and  
26 had a handgun. *Id.* ¶ 43. Mr. Terrell “had his hand on the back of the victim’s neck  
27 and was leading her away when the witness interrupted and told Mr. Terrell he  
28

1 should not hit her.” *Id.* ¶ 44. Mr. Terrell then “showed [the witness] the buttstock  
2 of a pistol which was located in his pants.” *Id.*

3 Years later, Mr. Terrell’s former intimate partner who reported his April 8,  
4 2022 firearm possession told police “things had not been going well between her  
5 and [Mr.] Terrell, and when he sent her the video of him shooting guns she became  
6 concerned for her safety.” Bates No. (available at ECF No. 17) 00000001.10. She  
7 said she was “certain [Mr.] Terrell had access to firearms if he really wanted to get  
8 one, and by his own admission he had committed violence of significant nature in  
9 the past.” *Id.*

10 She said she was “obviously very concerned when [Mr.] Terrell sent her the  
11 videos of him shooting a gun and stating that he had purchased a firearm, and so  
12 she sent all of the information off to [his community corrections officer].” *Id.* at  
13 00000001.10–.11. She said Mr. Terrell had made numerous threats against her  
14 before and had “really assaulted” her only once. *Id.* at 00000001.11. She described  
15 an incident in late March 2022, right before Mr. Terrell moved out of her  
16 residence, in which he “strangled her to the point where he almost rendered her  
17 unconscious, after the two had got into an argument.” *Id.* She said “she never  
18 reported the assault because she was scared of what [Mr.] Terrell may do if she  
19 turned him in.” *Id.* She said she had photographs of her injuries, though she did not  
20 ultimately provide them to police. *Id.* Thus, police did not develop probable cause  
21 to arrest Mr. Terrell for this alleged assault. *Id.* at 00000001.12. However, Mr.  
22 Terrell’s community corrections officer remained concerned that Mr. Terrell had  
23 recently perpetrated domestic violence against his former intimate partner who  
24 reported his April 8, 2022 firearm possession. *Id.* at 00000001.04.

### 27 III. SENTENCING CALCULATIONS

28 Based on a total offense level of 17, a criminal history score of 19, and a  
criminal history category of VI, the government agrees with the United States

1 Probation Office that the Guidelines range applicable to Mr. Terrell's case is fifty-  
2 one to sixty-three months' imprisonment. ECF No. 37 ¶¶ 34, 120, 191, 210.

#### 3 **IV. SENTENCING FACTORS UNDER 18 U.S.C. § 3553(a)**

4 In determining the appropriate sentence, the Court should consider the  
5 factors set forth in 18 U.S.C. § 3553(a).

##### 6 **A. The nature and circumstances of the offense and the history and** 7 **characteristics of the defendant**

8 These factors are concerning. Considering the extent of Mr. Terrell's  
9 domestic violence assault history, and the ways in which he has used firearms  
10 against his intimate partners before, his firearm possession here is far more  
11 dangerous than may be appreciated upon first impression.

12 Regarding the nature and circumstances of the offense, Mr. Terrell's former  
13 intimate partner who reported his April 8, 2022 firearm possession told police  
14 "things had not been going well between her and [Mr.] Terrell, and when he sent  
15 her the video of him shooting guns she became concerned for her safety." Bates  
16 No. (available at ECF No. 17) 00000001.10. She said she was "certain [Mr.]  
17 Terrell had access to firearms if he really wanted to get one, and by his own  
18 admission he had committed violence of significant nature in the past." *Id.*

19 She said she was "obviously very concerned when [Mr.] Terrell sent her the  
20 videos of him shooting a gun and stating that he had purchased a firearm, and so  
21 she sent all of the information off to [his community corrections officer]." *Id.* at  
22 00000001.10–.11. She said Mr. Terrell had made numerous threats against her  
23 before and had "really assaulted" her only once. *Id.* at 00000001.11. She described  
24 an incident in late March 2022, right before Mr. Terrell moved out of her  
25 residence, in which he "strangled her to the point where he almost rendered her  
26 unconscious, after the two had got into an argument." *Id.* She said "she never  
27 reported the assault because she was scared of what [Mr.] Terrell may do if she  
28

1 turned him in.” *Id.* She said she had photographs of her injuries, though she did not  
2 ultimately provide them to police. *Id.* Thus, police did not develop probable cause  
3 to arrest Mr. Terrell for this alleged assault. *Id.* at 00000001.12. However, Mr.  
4 Terrell’s community corrections officer remained concerned that Mr. Terrell had  
5 recently perpetrated domestic violence against his former intimate partner who  
6 reported his April 8, 2022 firearm possession. *Id.* at 00000001.04.

7         Mr. Terrell’s history and characteristics are equally concerning. At the time  
8 he possessed the firearm, Mr. Terrell was serving an eighteen-month term of  
9 community custody on a 2021 Washington state conviction for second degree  
10 assault (domestic violence), in which he strangled and struck a different intimate  
11 partner. ECF No. 37 ¶¶ 105, 110. It was the seventh time Mr. Terrell had been  
12 convicted for a domestic violence assault. *Id.* ¶¶ 39, 55, 68, 85, 87, 97, 105. Those  
13 seven convictions spanned from 2000 to 2021 and arose from incidents in  
14 California, Nevada, and Washington state. *Id.* Further, in California, Mr. Terrell  
15 had been convicted of four felonies for which he ultimately served more than one  
16 year’s imprisonment, namely for injuring a spouse or cohabitant in 2015,  
17 possessing a firearm as a felon in 2008, using force against an intimate partner in  
18 2007, and second degree robbery in 2003. *Id.* ¶¶ 49, 55, 61, 87. In total, Mr. Terrell  
19 has violated his probation conditions on at least six occasions. *Id.* ¶¶ 10, 11, 51, 58,  
20 102, 115.

21         Two of Mr. Terrell’s nineteen convictions involved a firearm. *Id.* ¶¶ 43, 65.  
22 In 2008, Mr. Terrell’s then-intimate partner reported Mr. Terrell “threatened to kill  
23 [her] while pointing a handgun at her face.” *Id.* ¶ 65. “He then directed her to take  
24 him to a couple of other locations, one of which was a fast-food restaurant.” *Id.*  
25 “While there, [Mr. Terrell] yelled profanities at [the victim] and said, ‘You going  
26 to die tonight bitch!’” *Id.* “When they arrived back at their residence, Mr. Terrell  
27 hit her in the head with the back of a pistol, pulled her hair, and slapped her.” *Id.*  
28

1 The victim was “unable to leave the residence until Mr. Terrell fell asleep.” *Id.* She  
2 then “escaped and called law enforcement for assistance.” *Id.*

3 In 2000, a witness reported Mr. Terrell assaulted his intimate partner and  
4 had a handgun. *Id.* ¶ 43. Mr. Terrell “had his hand on the back of the victim’s neck  
5 and was leading her away when the witness interrupted and told Mr. Terrell he  
6 should not hit her.” *Id.* ¶ 44. Mr. Terrell then “showed [the witness] the buttstock  
7 of a pistol which was located in his pants.” *Id.*

8 As the presentence investigation report aptly summarizes, “Mr. Terrell has  
9 used violence against many former intimate partners which includes, strangulation,  
10 intimidation, and physical assault. Mr. Terrell has told multiple intimate partners  
11 he is going to kill them and has pointed a firearm in the face of one of his former  
12 romantic partners.” *Id.* ¶ 209.

13 Mr. Terrell had a troubled and traumatic upbringing, having witnessed his  
14 father’s domestic violence assaults, substance abuse, and mental illness, and being  
15 conscripted into gang life at a young age. *Id.* ¶¶ 158–61.

16 Mr. Terrell admits “drinking is part of [his] problem” and “continued up to  
17 his arrest for this offense.” *Id.* ¶ 21, 168. He specifies, “consuming alcohol is the  
18 reason for his criminal history and medical conditions.” *Id.* ¶ 168. As his mother  
19 put it, “alcohol makes him [the defendant] do very bad things.” *Id.* ¶ 164 (alteration  
20 in original). He has “participated in substance abuse treatment on three occasions.”  
21 *Id.* ¶ 173. Yet, during the more than two decades he has been involved in various  
22 state-level criminal justice systems, he has failed to demonstrate any lasting  
23 change.  
24

25 A sentence of sixty months’ imprisonment best reflects the nature and  
26 circumstances of this crime as well as Mr. Terrell’s history and characteristics.  
27  
28



**B. The need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense**

The offense is serious, reflects disregard for the rule of law, and requires just punishment. On these points, “data shows that offenders with domestic violence in their past pose a high risk of homicide.” *Justice Department Announces Six New Firearms Technical Assistance Project Sites and Awards \$750,000 to National Resource Center on Domestic Violence and Firearms*, U.S. Dep’t of Justice (June 30, 2022), <https://www.justice.gov/opa/pr/justice-department-announces-six-new-firearms-technical-assistance-project-sites-and-awards>. “In fact, domestic violence abusers with a gun in the home are five times more likely to kill their partners, and in addition to their lethality, firearms are used by abusers to inflict fear, intimidation, and coercive control.” *Id.* “Additionally, when a violent intimate partner has access to a firearm, nonfatal abuse may increase in severity, even when firearms are not directly used in a violent incident.” April M. Zeoli, *Domestic Violence and Firearms: Research on Statutory Interventions* 2 (2018) (citation omitted), available at <https://www.preventdvgunviolence.org/dv-and-firearms-zeoli.pdf>. “Recent research suggests that the federal statute prohibiting those convicted of misdemeanor crimes of domestic violence from firearm purchase and possession has significantly reduced homicides of female intimate partners and male domestic children.” *Id.* at 11.

Here, the offense is serious for several reasons, not the least of which is the magistrate court’s findings at the detention hearing phase of Mr. Terrell’s case:

[T]he nature of the allegations in the Indictment are serious, particularly when considered in relation to Defendant’s history and characteristics . . . . While the possession of the firearm at issue is alleged to have occurred at a firing range and is alleged to have been transitory, Defendant has a long criminal history that includes multiple convictions for violent offenses and the United States has



1 proffered that Defendant sent a video of him firing the weapon at  
 2 issue in the Indictment to an estranged domestic partner. While  
 3 Defendant claims he did not send the video with any threatening or  
 4 malign intent, the Government has proffered police reports that  
 5 indicate the Government has proffered that the recipient of the video  
 6 viewed the act of transmitting the video as threatening, particularly  
 7 after the video was sent after she had experienced domestic violence  
 8 from Defendant and after their relationship ended. In the Court's  
 9 view, it is a reasonable inference that Defendant sent the video with  
 10 the intent to intimidate the recipient given the timing of when the  
 11 video was sent (i.e. after the relationship ended on bad terms).

12 ECF No. 20 at 3–4; *see also id.* at 5–6 (applying the clear and convincing evidence  
 13 standard in determining whether the United States met its burden of proof in the  
 14 detention hearing).

15 The offense also reflects disregard for the rule of law because Mr. Terrell  
 16 chose to possess a firearm despite repeated court warnings he was convicted of a  
 17 felony or was otherwise prohibited from possessing a firearm. ECF No. 37 ¶¶ 49,  
 18 55, 61, 87, 104

19 Thus, there is a great need for the sentence in Mr. Terrell's case to reflect the  
 20 seriousness of the offense, promote respect for the law, and provide just  
 21 punishment. A sentence of sixty months' imprisonment is sufficient but not greater  
 22 than necessary to accomplish this purpose.

23 **C. The need for the sentence imposed to afford adequate deterrence to**  
 24 **criminal conduct**

25 As indicated above, recent research suggests 18 U.S.C. § 922(g)(9) has been  
 26 effective in saving lives. The United States hopes to achieve similar outcomes by  
 27 enforcing 18 U.S.C. § 922(g)(1) in cases like Mr. Terrell's, where the defendant is  
 28 a repeat perpetrator of violence against his or her intimate partners. The United  
 States believes there is a great need for the sentence imposed in Mr. Terrell's case  
 to adequately deter both him and other domestic violence perpetrators in this

1 district from possessing firearms when federal law clearly prohibits them from  
 2 doing so. A sentence of sixty months' imprisonment is sufficient to achieve this  
 3 objective. A lower sentence would be insufficient. But a higher sentence would be  
 4 greater than necessary.

5 **D. The need for the sentence imposed to protect the public from further**  
 6 **crimes of the defendant**

7 According to data discussed above, domestic violence perpetrators pose a  
 8 high risk of killing other people, especially their intimate partners. Domestic  
 9 violence perpetrators with firearms in their homes are five times more likely to kill  
 10 their intimate partners. Domestic violence perpetrators also use firearms to inflict  
 11 fear, intimidation, and coercive control in their intimate partners. And when  
 12 domestic violence perpetrators have access to firearms, the severity of nonfatal  
 13 abuse may increase even when firearms are not directly used in the incident.

14 Considering the extent of Mr. Terrell's domestic violence assault history,  
 15 and the ways in which he has used firearms against his intimate partners before,  
 16 there is a great need for the sentence imposed in Mr. Terrell's case to protect his  
 17 former intimate partners, and the public at large, from his further crimes. A  
 18 sentence of sixty months' imprisonment is sufficient but not greater than necessary  
 19 to accomplish this purpose.

21 **E. The need for the sentence imposed to provide the defendant with needed**  
 22 **educational or vocational training, medical care, or other correctional**  
 23 **treatment in the most effective manner**

24 Mr. Terrell admits "drinking is part of [his] problem" and "continued up to  
 25 his arrest for this offense." ECF No. 37 ¶ 21, 168. He specifies, "consuming  
 26 alcohol is the reason for his criminal history and medical conditions." *Id.* ¶ 168. As  
 27 his mother put it, "alcohol makes him [the defendant] do very bad things." *Id.*  
 28 ¶ 164 (alteration in original). Mr. Terrell has "participated in substance abuse  
 treatment on three occasions." *Id.* ¶ 173. Yet, during the more than two decades he

1 has been involved in various state-level criminal justice systems, he has failed to  
2 demonstrate any lasting change.

3 As a sophomore, Mr. Terrell was expelled from high school for bringing a  
4 firearm to school. *Id.* ¶ 175. He did not graduate from high school and has not  
5 received a general educational development certificate. *Id.* ¶ 176, 179. He would  
6 like to participate in vocational training if incarcerated. *Id.* ¶ 177.

7 Mr. Terrell would likely benefit from services available to him in the Federal  
8 Bureau of Prisons, and his sentence should provide him access to such services.

9 **F. The need to avoid unwarranted sentence disparities among defendants**  
10 **with similar records who have been found guilty of similar conduct**

11 The best way to ensure consistent sentences for similarly-situated defendants  
12 across courtrooms, districts, and the country is for district courts to apply the  
13 Guidelines in the same manner everywhere. *See United States v. Saeteurn*, 504  
14 F.3d 1175, 1181 (9th Cir. 2007); *United States v. Parker*, 462 F.3d 273, 277 (3d  
15 Cir. 2006); *United States v. Boscarino*, 437 F.3d 634, 638 (7th Cir. 2006).  
16 Ultimately, “the Guidelines remain the foundation of federal sentencing decisions.”  
17 *Hughes v. United States*, 138 S. Ct. 1765, 1775 (2018). After all, “avoidance of  
18 unwarranted disparities was clearly considered by the Sentencing Commission  
19 when setting the Guidelines ranges.” *Gall v. United States*, 552 U.S. 38, 54 (2007).  
20 And “it is unquestioned that uniformity remains an important goal of sentencing.”  
21 *Kimbrough v. United States*, 552 U.S. 85, 107 (2007). Further, “it is also legitimate  
22 to avoid ‘unwarranted *similarities* among [defendants] who were not similarly  
23 situated.’” *United States v. Amezcua-Vasquez*, 567 F.3d 1050, 1058 (9th Cir. 2009)  
24 (alteration in original) (quoting *Gall*, 552 U.S. at 55). To achieve uniformity,  
25  
26  
27  
28

1 “district courts must take account of sentencing practices in other courts.”<sup>1</sup>  
 2 *Kimbrough*, 552 U.S. at 108. Yet, at the same time, “[t]o reach an appropriate  
 3 sentence, [any] disparities must be weighed against the other § 3553(a) factors.” *Id.*

4 Here, the need to avoid unwarranted sentence disparities is high. But what  
 5 that requires in Mr. Terrell’s case is adherence to and not variance from the  
 6 Guidelines. *See* ECF No. 37 ¶ 209 (“[A] guideline range sentence appears to be  
 7 sufficient but not greater than necessary . . .”). The Guidelines range applicable to  
 8 Mr. Terrell’s case is fifty-one to sixty-three months’ imprisonment. *Id.* ¶¶ 191, 210.  
 9 A sentence of sixty months’ imprisonment is reasonable and commensurate with  
 10 sentences imposed on defendants similarly situated to Mr. Terrell.

#### 11 V. SENTENCING RECOMMENDATION

12 The United States recommends the Court sentence Mr. Terrell to sixty  
 13 months’ imprisonment followed by three years’ supervised release. Such a  
 14 sentence adequately captures the nature and severity of Mr. Terrell’s offense  
 15 conduct, as well as his criminal history and acceptance of responsibility.

16 Dated: June 6, 2023.

17  
 18 Vanessa R. Waldref  
 19 United States Attorney

20 s/ Michael L. Vander Giessen  
 21 Michael L. Vander Giessen  
 22 Special Assistant United States Attorney

---

23  
 24 <sup>1</sup> A notable exception is that while § 3553(a)(6) “requires district courts to consider  
 25 sentencing disparities between similarly situated *federal* defendants,” “[i]t does not  
 26 require district courts to consider sentence disparities between defendants found  
 27 guilty of similar conduct in state and federal courts.” *United States v. Ringgold*,  
 28 571 F.3d 948, 951 (9th Cir. 2009).

**CERTIFICATE OF SERVICE**

I hereby certify that on June 6, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Stephen R. Hormel.

*s/ Michael L. Vander Giessen*

Michael L. Vander Giessen

Special Assistant United States Attorney